

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

WRIT PETITION NO : 21602 of 1994

Between:

Andhra Pradesh Cooperative Central Banks

'Employees' Association, B.1100, Hyderabad.

Rep. By its General Secretary Sri Ch. Madhavarao.

..... PETITIONER

AND

-

Commissioner and Registrar of Cooperative Societies,

Andhra Pradesh, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ in the nature of Mandamus, directing the respondent not to deny the two increments sanctioned to S.T. employees for their acquiring academic qualification of graduation to the LT employees who opted for the ST Scales of pay as per Rule 73 of A.P. Cooperative Societies Rules after declaring the direction in so far as academic qualifications contained in his guidelines in paragraph 5(ii) (a) of Ex.A1.i.e., Rc.No.61164/86 K6 dated 20.6.1994 as illegal and discriminatory and violative of Articles 14 and 16 of the Constitution of India.

Counsel for the Petitioner: MR.K.NARASIMHAM

Counsel for the Respondent: GP FOR COOPERATION

The Court made the following :

ORDER:

The petitioner was a registered association of all the employees, who were working in the erstwhile Primary Agricultural Development Banks. The State of Andhra Pradesh by G.O.Ms.No.132 Agricultural and Cooperation (Coop.III) dated 3.3.1993 amended the Rules under Andhra Pradesh Cooperative Societies Rules, 1964 (for short 'the Rules') in exercise of the powers conferred under Section 130 of the Andhra Pradesh Cooperative Societies Act, 1964. By virtue of Rule 73 of the Rules, the Primary Agricultural Development Banks were abolished with effect from 1.4.1987. As a result of which, the staff employed with the erstwhile Primary Agricultural Development Banks were transferred to the service of the concerned District Cooperative Central Banks. As a consequence of such transfer, the employees, who are transferred from the Primary Agricultural Development Banks, are required to be equated with the employees of the District Cooperative Central Banks and integrated into the service of the District cooperative Central Banks, which required some exercise. Until such an exercise is completed, under the amended Rule 73 of Clause 5 (a) of the Rules, the transferred employees were required to give their option either to be governed by the Rules governing their service when they were in the employment of the Primary Agricultural Development Banks or to be governed by the Rules dealing with the service conditions of the employees of the District Cooperative Central Banks. It is the case of the petitioner-association that all the transferred employees had opted to be governed by the service conditions of the District Cooperative Central Bank. This fact is not in dispute.

One of the conditions of the service of the District Cooperative Central Bank employees was that any employee, who acquired the qualification of graduation, is entitled to two increments in the concerned pay scale relevant to his employment. However, the respondent herein through proceedings in R.C.No.61164 of 1986 K6 dated 20-6-1994 issued guidelines on various matters dealing with the service conditions of the transferred employees, the details of which are not necessary for the present purpose except Paragraph 5(a) of the proceedings by which it was announced that the transferred employees would not be entitled to the increments on their acquiring graduate qualification, which is available to the employees of the

District Cooperative Central bank. Challenging the said provision, the present writ petition is filed.

Admittedly, the said benefit of granting two increments to the employees of the District Cooperative Central Bank on their acquiring degree qualification is one of the conditions of settlement arrived at between the employees of the Primary Agricultural Development Banks on the one hand and the District Cooperative Central Banks on the other, in the award in I.D.No.13 of 1967 dated 12-3-1970 passed by the Industrial Tribunal, Hyderabad. There is no dispute about this fact. If that is the case, by virtue of the operation of Section 18 (3) (d) of the Industrial Disputes Act, 1947 all those persons, who were subsequently employed in the establishment i.e., the District Cooperative Central Bank are also entitled to the benefit of such settlement.

Section 18 (3) of the Industrial Disputes Act reads as follows:

A settlement arrived at in the course of conciliation proceedings under this Act [or an arbitration award in a case where a notification has been issued under sub-section (3-A) of Section 10-A] or [an award (of a Labour Court, Tribunal or National Tribunal) which has become enforceable] shall be binding on –

- a).....
- b)....
- c)....
- d. Where a party referred to in clause (a) or clause (b) is composed of workman, all persons who were employed in the establishment or part of the establishment, as the case may be, which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

It is plain from the above language that the employees who were transferred from the erstwhile Primary Agricultural Development Banks to the District Cooperative Central Banks became employees of the District Cooperative Central Banks from the date of their transfer as the persons, who subsequently became employed with the District Cooperative Central Banks. Therefore, they are entitled for all the benefits conferred under any settlement arrived at between the employees of both the banks notwithstanding the fact that they were not in the employment at the time of the settlement. The administrative instructions issued by the respondent in his proceedings dated 20-6-1994 are not in consonance with the mandate

contained under Section 18 (3) of the Industrial Disputes Act and are illegal and are liable to be declared as such.

Accordingly, the Writ Petition is allowed declaring that the guidelines of the respondent dated 20-6-1994, insofar as they seek to deny the benefit of increments to those who have acquired the qualification of graduation, are declared as illegal and inoperative. No costs.

J. CHELAMESWAR, J.

2nd December, 2004

js.

To

1 Commissioner and Registrar of Cooperative Societies,

Andhra Pradesh, Hyderabad.

2 Two CCs to G.P. for Cooperation, High Court Buildings,

Hyderabad.

3 2 CD copies.

That Rule Nisi has been made absolute as above.

Witness, the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Tuesday, the Fourteenth Day of December, Two Thousand and Four.

ASSISTANT REGISTRAR

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